to be kept in violation of the excise laws is part of an illegal transaction tending to the safer carrying on of the same and void. *Kelly* v. *Home Ins. Co.*, 97 Mass. 288. In the instant case such participation in the unlawful intent is apparently insufficient to taint the contract with illegality. The court refused to admit evidence that the lease was made with the understanding that the Sunday closing law was to be violated. But such evidence has been held admissible even where the lease, as in this case, contained an express covenant that the premises should not be used for an unlawful purpose. *Demartini* v. *Anderson,* 127 Cal. 33, *Plath* v. *Kline,* 18 N. Y. App. Div. 240. Such evidence does not vary the lease but shows that it was wholly illegal and void. *Mound* v. *Barker, supra*; *Dougherty* v. *Seymour,* 16 Colo. 289.

LIBEL AND SLANDER—IMPUTING INELIGIBILITY TO HOLDER OF PUBLIC OFFICE OF PROFIT.—During the plaintiff's term in the State Senate, the defendants procured the publication of a false article in many of the state newspapers. Among the various charges against the plaintiff were several accusing him of holding office illegally. The state constitution made citizenship a requisite for eligibility, and this article charged that he was not a citizen of the United States. It also charged that he had violated the state constitution by holding the office of bank examiner, which the constitution provided he was not qualified to hold. For these various disqualifications, the defendants as signers of the article, demanded his resignation. Defendants' demurrer admitted the charges were false, and that they were maliciously published; but they claim this is not sufficient to constitute a cause of action. *Held,* imputations like those contained in this article are libelous *per se. Englund* v. *Townley et al.,* (N. D., 1919) 174 N. W. 755.

As a general rule, any words written of one holding an office of profit, charging ineligibility, incapacity, corruption or lack of integrity in office are libelous *per se,* on the theory that they render one's tenure of office precarious, and consequently are to one's pecuniary disadvantage. *Children* v. *Shinn,* 168 Ia. 531. The court, in the instant case, supported this rule by holding these written charges, of ineligibility and unfitness, against the incumbent of an office of profit are libelous *per se.* A direct precedent is found in *MacInnis* v. *National Herald Printing Co.,* 140 Minn. 171, where a written charge that an incumbent of an office, and a candidate for re-election, is not a citizen, when citizenship is a requisite for eligibility, is libelous *per se.* For a review of the authorities on this point, see L. R. A. 1918 E. 27. Generally spoken words are actionable only when they impute a crime; but even spoken words, imputing incapacity to an incumbent of an office of profit, are actionable. *Gove* v. *Biethen,* 21 Minn. 80. A distinction is generally recognized in cases of imputation of incapacity in regard to the holding of an office of honor or credit only; and in such cases the words are not actionable *per se,* but only if the conduct charged is such as to subject the incumbent to removal from office. *Alexander* v. *Jenkins* [1892] 1 Q. B. 802.